

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

10x GENOMICS, INC.,

Plaintiff,

v.

CELSEE, INC.,

Defendant.

Civil Action No. 19-862-CFC-SRF

MEMORANDUM ORDER

Plaintiff 10x Genomics alleges that Defendant Celsee's Genesis Platform infringes claims 37 and 49 of U.S. Patent No. 10,273,541 (the #541 patent). D.I. 86 ¶ 37. Pending before me is 10x's Motion for Summary Judgment of Direct Infringement of the #541 patent. D.I. 257.

The parties agree that the resolution of the motion turns on whether Celsee practiced the infringing 3 Prime protocol after the #541 patent was issued on April 30, 2019. *See* D.I. 307 at 7–12; D.I. 265 at 4–5. 10x argues that Celsee infringed the asserted claims of the patent when its employee Dr. Deol ran a set of experiments in July 2019 as a part of feasibility testing. D.I. 265 at 14. In support of its argument, Celsee cites (1) a July 2019 email chain in which Dr. Deol described an experiment he was undertaking, D.I. 259-2, Ex. 10; (2) a PowerPoint

presentation by Dr. Deol dated July 22–27, 2019 that describes the results of an experiment, D.I. 259-2, Ex. 11; and (3) a data sheet of results from July 5, 2019, D.I. 259-2, Ex. 12. *See* D.I. 265 at 14–16, 18–20. Central to 10x’s argument is the implicit and disputed premise that the PowerPoint presentation describes the same experiment that is discussed in the July 2019 email chain and referenced in the data sheet. Because that premise is disputed, there is a genuine issue of material fact that precludes entry of summary judgment in 10x’s favor. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986) (holding that summary judgment will not lie if there is a genuine dispute about a material fact).

NOW THEREFORE, at Wilmington this Sixth day of April in 2021, **IT IS HEREBY ORDERED** that Plaintiff’s Motion for Summary Judgment of Direct Infringement of the #541 Patent (D.I. 257) is **DENIED**.



UNITED STATES DISTRICT JUDGE